

REMARKS

The claims are resubmitted for examination without amendment. Thus, by this Amendment, Claims 1 through 5 are presented for examination, species Claims 6 through 12 having been withdrawn subject to allowance of a bridging claim.

The Examiner has rejected the pending claims as allegedly anticipated by two patent references. The first rejection to be discussed relates to Claims 1 and 2 and is based upon the United States patent of Silver. The second rejection to be discussed is based upon the United States patent of Knapp. The Knapp rejection is made by the Examiner contrary to an agreement made between the Examiner and Applicant's attorney in a telephone conference between the parties that took place on June 6, 2008 that is referenced by Applicant's attorney in an amendment submitted with the Request for Continued Examination filed in this case on June 12, 2008.

The Examiner has relied upon tortured interpretations of the claims to support her allegations of anticipation. Referring first to the rejection based upon Silver, such patent teaches a safety garment or article. The article 20 comprises a trunks part 24 that is joined by stitching or the like to a pair of tubular leg pant parts 28 of mesh material to define a pair of

trousers 22. The trunks part 24 resembles a conventional pair of trunks or shorts. Tubular leg shells 46 are removably joined to the trousers 22 by one of a number of types of fasteners including, but not limited to snaps with female snaps 52 being arranged about the upper and lower ends 30 and 36 respectively of the leg pant parts 28 to mate with male snaps 50 fixed to upper and lower fillets 37 of the tubular leg shells 46.

Claim 1 and the claims that depend therefrom, including Claim 2, are directed to a garment having a pair of pant legs, each leg having an inner seam and an outer seam, that includes, among other limitations, "at least one of said pant legs having an elongated aperture located adjacent said outer seam of a pant leg". In constructing her anticipation allegation, the Examiner explicitly equates apertures 26 for accommodating female snaps 52 that are arranged horizontally about the region of joinder of the trunks part 24 to the leg pant parts 28 with the aperture(s) of Claim 1. (The tubular leg shell 46 is equated with "at least one ornament" as set forth in Claim 2.)

The Examiner's anticipation argument conveniently avoids or ignores the explicit location of Applicant's aperture(s) "adjacent said outer seam" in Claim 1. The "outer seam" term clearly refers to the vertical seam(s) illustrated in

the drawings that run the outer length(s) of the pant leg(s) and this is made clear both from the drawings. The vertically-spaced arrays of apertures 12' and 14' associated with such outer seams are illustrated, for example, in Figure 1 of the application and are correspondingly identified and discussed in the written specification.

The apertures of Silver that the Examiner relies upon are clearly not located adjacent an outer seam. No such outer seam is discussed or illustrated with respect to either the trunks part 24 or the tubular shell 28 despite the Examiner's cryptic attempt to conjure it (the Examiner states "traditional interior and exterior of pant leg and seam connecting portions 24 to 28" and refers to column 2, lines 22-26 which states "...and a pair of tubular pant leg parts 28 each adapted to receive a protruding leg of said wearer in use and extending between an upper end 30 which is connected, by stitching of the like, to said trunks part 24, and a lower end 32"). The relevance of the above quotations to an "outer leg seam" as called for in Claim 1 is not understood.

In fact, no outer seam of either the trunks part 24 or the tubular pants parts 28 is shown or referred to in Silver. Rather, Silver's apertures are located adjacent the upper end 30

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of a tubular pant part 28 that cannot possibly be construed to be
an "outer seam" as it (the upper end 30) is oriented transverse
to the lengths of the trousers 22. (Note: Not all pant-type
garments have an outer seam. For example sweat pants generally
have an inner seam but no outer seam.)

Thus, Silver does not anticipate, nor does it render
obvious, the claimed invention as defined by Claims 1 and 2 of
the application as it does not teach, among other limitations,
"each of said pant legs having an inner surface and an inner
surface and including an outer seam and an inner seam" and "at
least one of said pant legs having an elongated aperture located
adjacent said outer seam of a pant leg".

The Examiner, as stated above, has again rejected
claims as allegedly anticipated by the Knapp reference despite
the agreement made by the Examiner in the above-cited telephone
conference that the refusal based upon anticipation by Knapp
would be overcome by amendments proposed and made by Applicant's
attorney to Claims 1 and 3 in the previously-filed amendment.
Prior to discussing the current rejection of Claims 1 through 5,
again based upon alleged anticipation by Knapp, Applicant's
attorney respectfully requests that the Examiner remove such
rejection in accordance with the existing agreement.

Nevertheless, the current rejection of the claims based upon alleged anticipation by Knapp is every bit, if not more, flawed than prior claim rejections based upon Knapp. The new anticipation argument rests on the Examiner's allegation that the button hole 56 of Knapp satisfies the limitation of base Claim 1 that "at least one of said pant legs having an elongated aperture located adjacent said outer seam of a pant leg." The Examiner now refers Applicant's attorney to "traditional outer leg seam and inner leg seam: see Figure 1" to satisfy the portion of the limitation pertaining to outer and inner seams. Observing Figure 1 of Knapp, a normal reader would consider the "outer leg seam" and "inner leg seam" of that garment to comprise the seams "o" and "i" respectively, each marked in red ink on the attached photocopy of Figure 1 of Knapp. The button hole 56, is not located anywhere near, and is therefore not adjacent the outer leg seam o and the referenced limitation of Claim 1 is not taught by Knapp. Accordingly, neither by the Examiner's current interpretation, her prior interpretation or any other rational and conceivable interpretation can Knapp comprise an anticipation of the invention as presently claimed.

Thus it is seen that neither of the pending rejections based on anticipation is sustainable. Nor would conceivable rejections based upon obviousness in view of the cited art either

alone or in combination with any other art known to the Applicant
be proper. Accordingly, prompt allowance and issuance of all
presently-pending claims, as well as the previously-withdrawn
species claims that are now within the scope of the allowed
bridging claim, are earnestly solicited.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'E. N. Kramsky', written in dark ink.

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